

2002 Title IV Negotiated Rulemaking Committees

ORGANIZATIONAL PROTOCOLS

Team II – Program Issues

I. Mission Statement

The U.S. Department of Education has established this negotiated rulemaking committee to develop proposed student financial assistance regulations pursuant to Sec. 492 of the Higher Education Act of 1965, as amended (HEA).

II. Participation

A. The committee consists of the following members:

Jo'ie Taylor and Ellynn Bannon representing students, including the United States Student Association and State PIRGs (Public Interest Research Group) Higher Education Project

Alan White and Elena Ackel (alternate), representing legal assistance organizations, including Community Legal Services and the National Consumer Law Center

Rachael Lohman and Marty Guthrie (alternate), representing financial aid administrators, including the National Association of Student Financial Aid Administrators

Laurie Quarles and Alisa Abadinsky (alternate), representing business officers, bursars, and institutional servicers, including the Coalition of Higher Education Assistance Organizations and the National Association of College and University Business Officers

Reginald T. Cureton and William "Buddy" Blakey (alternate), representing the American Indian Higher Education Consortium, the United Negro College Fund and the National Association for Equal Opportunity in Higher Education

Claire M. Roemer and Patricia Hurley (alternate), representing two-year public colleges and universities, including the American Association of Community Colleges

Dawn Mosisa and Jo Ann Yoshida (alternate), representing four-year public colleges and universities, including the National Association of System Heads, the American Association of State Colleges and Universities, and the University Continuing Education Association

Lydia MacMillan, Ryan Craig Williams (alternate), and Maureen Budetti (2nd alternate), representing private, not-for-profit colleges and universities, including the National Association of Independent Colleges and Universities, and the Association of Jesuit Colleges and Universities

Robert Collins and Nancy Broff (alternate), representing for-profit postsecondary institutions, including the American Association of Cosmetology Schools and the Career College Association

Charles Cook and Diane Rogers (alternate), representing accrediting agencies, including the Council for Higher Education Accreditation (12-hour rule only)

Neal Combs and Carl Buck (alternate), representing guaranty agencies and servicers, including the National Council of Higher Education Loan Programs (NCHELP), the CEO caucus of NCHELP, and the National Association of Student Loan Administrators

Francine Andrea and Wanda Hall (alternate), representing lenders, secondary markets, and loan servicers, including the Consumer Bankers Association, the Education Finance Council, the Student Loan Servicing Alliance, and the National Council of Higher Education Loan Programs

Carney McCullough, representing the U.S. Department of Education

- B. The member will participate for the purposes of determining consensus. The first alternate will participate for the purposes of determining consensus in the absence of the member. In the absence of the member or the first alternate, the second alternate will participate for the purposes of determining consensus. Either the member or an alternate may speak during the negotiations.
- C. With approval by a consensus of the committee, individuals, including specialists, who are invited by a member may participate in committee meetings as needed and appropriate, but are not members of the committee.
- D. The committee may add members. Requests for membership must be approved by a consensus of the committee under such conditions as the committee establishes at the time. Participation may begin immediately upon admission to membership.

III. Decision Making

The committee will operate by consensus, meaning that there must be no dissent by any member in order for the committee to be considered to have reached agreement. Thus, no member can be outvoted. Members should not block or withhold consensus unless they have serious reservations about the approach or solution that is proposed for consensus. Absence will be equivalent to not dissenting. All consensus agreements reached during the negotiations will be assumed to be tentative agreements until members of the committee reach final agreement on regulatory language. Once final consensus is achieved, committee members may not thereafter withdraw their consensus.

IV. Agreement

- A. The goal of the committee is to develop proposed regulations that reflect a final consensus of the committee. The Department will provide the preamble to the proposed regulations for review and comment prior to publication of the proposed regulations.
- B. If the committee reaches a final consensus on all issues, the Department will use this consensus-based language in its proposed regulations, and committee members and those persons and entities whom they represent will refrain from commenting negatively on the consensus-based regulatory language, except as provided in paragraph IV D. If there is a disagreement between a committee member and an entity that he or she represents, the member may participate in a consensus but shall note the dissent of that entity, which will retain the right to comment negatively on that issue.
- C. If the committee reaches a final consensus on some but not all issues, the Department will include the consensus-based language in its proposed regulations, and committee members and those persons and entities whom they represent will refrain from commenting negatively on the consensus-based language, except as provided in paragraph IV D. If there is a disagreement between a committee member and an entity that he or she represents, the member may participate in a consensus but shall note the dissent of that entity, which will retain the right to comment negatively on that issue.
- D. The Department will not alter the consensus-based language of its proposed regulations unless the Department reopens the negotiated rulemaking process or provides a written explanation to the committee members why it has decided to depart from that language. That written explanation will contain a detailed statement of the reasons for altering the consensus-based language and will be provided to the committee members sufficiently in advance of the publication of the proposed regulations so as to allow them a real opportunity to express their concerns to the Secretary. If the Department alters consensus-based language, it also will identify the changes made subsequent to consensus in the preamble to the proposed regulations, and committee members may comment positively or negatively on those changes and on other parts of the proposed regulations.

V. Committee Meetings

- A. The facilitators will maintain a clear and reliable record of tentative and final agreements reached during the negotiation process, as well as discussions of preamble language. Draft meeting summaries will be shared with negotiators and alternates who will share the summaries with coalition partners. After review and approval by the committee, this record will be made available to the public.
- B. The Department will make every effort to distribute materials to committee members in a timely fashion. To the extent practicable, the Department will provide members with documents for discussion at committee meetings at least seven days in advance of the meetings.

- C. A caucus for the purpose of consultation may be requested of the facilitators at any time by any member.
- D. The facilitators will be responsible for developing an agenda for all meetings of the committee. This agenda will be developed in consultation with the members of the committee.
- E. All committee meetings, but not caucuses, are open to the public.

VI. Safeguards for Members

- A. Any member may withdraw from the negotiations at any time without prejudice by notifying the facilitators in writing.
- B. Any organization represented by a member may withdraw itself from such representation at any time by notifying the facilitators in writing.
- C. All members, and those persons or entities whom they represent, shall act in good faith in all aspects of these negotiations.
- D. Contact with the press will generally be limited to discussion of the overall objectives and progress of the negotiations.

VII. Meeting Facilitation

- A. The facilitators will serve at the discretion of the committee. They will be responsible for helping to ensure that the process runs smoothly, developing meeting agendas, preparing and distributing a record of agreements, and helping the parties resolve their differences and achieve consensus on the issues to be addressed by the committee.
- B. The facilitators will be available to facilitate all meetings of the full committee and, to the extent possible, caucuses.